

REMARKS

Entry of the foregoing and reexamination and reconsideration of the subject application, as amended, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested in light of the remarks which follow.

The acknowledgment of applicants' Information Disclosure Statement on page 2 of the Official Action and the return of the Examiner-initialed copy of applicants' Form PTO-1449 (three sheets) are noted, with appreciation.

Applicants also appreciate the Examiner's acknowledgment on page 2 of the Action of the various domestic priorities that are claimed in the first paragraph of the specification. It is, however, respectfully pointed out that U.S. Provisional Application No. 60/111,857 was filed December 11, 1998, not December 12, 2000 as indicated on page 2 of the Action.

The courtesy of the telephone interview on October 14, 2004 granted by Examiner Saeed to the undersigned representative for applicants is gratefully acknowledged. In the telephone interview, applicants' representative requested that the Examiner consider that the proposed genus for the elected subject matter as set forth by the Examiner on page 5 of the specification be defined more broadly in regard to the definitions of R_{202} , R_{212} and aryl.

Specifically, applicants' representative first requested that the proposed definition of R_{202} be broadened to $S(O)_h R_{203}$ wherein R_{203} is alkyl or haloalkyl and h is 0, 1, or 2, which is still only a portion of the original Claim 12 definition of R_{202} . The Examiner agreed that this would still be acceptable in light of the restriction/election requirements.

Secondly, applicant's representative requested that the proposed definition of R₂₁₂ be broadened to include halogen, hydrogen, cyano or nitro, in agreement with the definition of R₂₁₂ in original Claim 12. Again, the Examiner agreed that this would be acceptable in light of the restriction/election requirements.

Finally, the Examiner's proposed definition of aryl in the term -N(R₂₀₅)C(O)aryl was discussed. Applicants' representative pointed out that the Examiner's proposed definition was very narrow and that there was ample support in the original specification and claims for a broader definition without running afoul of the restriction/election requirements. It was ultimately agreed with the Examiner that "aryl" would be defined in Claim 12 as it was in original Claim 13, except that "phenyl" and "pyridyl" would not be included because of classification considerations. Thus, aryl could be broadly defined as thienyl or furyl, each of which is unsubstituted or is substituted by alkoxy, haloalkyl or halogen.

Applicants' representative agreed that the claims drawn to the compounds would be restricted to the genus outlined by the Examiner, modified in the definitions of R₂₀₂, R₂₁₂ and aryl as agreed upon in the telephone interview. The present amendment is in conformity therewith. Applicants of course reserve the right to file one or more divisional or other continuing applications directed to the canceled subject matter.

The Examiner has indicated that in accord with MPEP 821.04 and *In re Ochiai*, 37 USPQ 1127, following a finding that the product claims are allowable, he will rejoin method of use claims commensurate in scope therewith. Applicants have amended their method of use claims to be commensurate in scope with the amended compound claims.

Claims 1-22, 24-27, 29, 32, 34, 36-38 and 40-48, are now in this application.

Claims 23, 28, 30, 31, 33, 35 and 39 have been canceled.

Claim 23 has been canceled because Claim 22 already now includes the feature specified in Claim 23. Claim 28 has also been canceled for the same reason. Claims 30 and 31 have been canceled because they would be redundant in light of amended Claims 13 and 14, respectively, if amended consistent with the restriction/election requirements. For the same reason, Claims 33 and 35 have been canceled in light of amended Claims 15 and 16, respectively. Claim 39 has been canceled as redundant in light of amended Claim 38.

Compound Claim 12 has been amended to restrict the definitions of R_{202} , aryl and X_1 as agreed. Dependent Claims 13-17 have been restricted accordingly. Composition Claim 18 has been amended identically to Claim 12. Claim 21 already contained the agreed upon definition of R_{202} , but aryl and X_1 have been amended as in Claim 12. The dependencies of Claims 24, 32, 34 and 37 have been amended. Claims 37 and 38 have been amended to delete species outside the scope of the restricted genus.

Method of use Claim 1 has been amended consistent with the amendments to compound Claim 12. Dependent Claims 2-4 and 6 have been amended accordingly. All method of use claims contain all the limitations imposed upon the compound claims.

All of the claims now read on the modified elected genus of compounds described above and agreed upon with the Examiner, or on a composition comprising said genus, or on a method of using said genus.

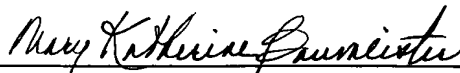
In view of the foregoing, further, favorable consideration and allowance of all of the claims as amended are believed to be in order and are earnestly solicited.

Respectfully submitted,

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